

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
November 27, 2007 Session

IN RE: ESTATE OF THELMA RUTH HARE, Deceased

**Direct Appeal from the Circuit Court for Davidson County
No. 05P-1582 Randy Kennedy, Judge**

No. M2009-02205-COA-RM-CV - Filed November 20, 2009

The trial court's dismissal of the Tennessee Bureau of TennCare's claim against decedent's estate as time-barred under Tennessee Code Annotated §§ 30-2-307 and 310 is reversed in light of the supreme court's holding in *In Re: Estate of Martha M. Tanner*. This matter is remanded to the trial court for further proceedings.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Reversed; and
Remanded**

DAVID R. FARMER, J., delivered the opinion of the court, in which ALAN E. HIGHERS, P.J., W.S., and HOLLY M. KIRBY, J., joined.

Robert E. Cooper, Jr., Attorney General and Reporter and L. Vincent Williams, Deputy Attorney General, for the Tennessee Bureau of TennCare.

Peggy D. Mathes, Administrator of Estate of Thelma Ruth Hare, *Pro Se*.

MEMORANDUM OPINION¹

This appeal concerns a claim filed by the Tennessee Bureau of TennCare ("the Bureau") pursuant to Tennessee Code Annotated § 71-5-116(c) to recover medical benefits paid on behalf of Decedent from Decedent's estate. The facts relevant to this appeal are undisputed. Beginning

¹ Rule 10 of the Rules of the Court of Appeals of Tennessee provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION", shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

September 2002, the Bureau correctly paid medical benefits to Thelma Ruth Hare (Ms. Hare), who subsequently died on March 1, 2003, at the age of eighty-seven. On August 15, 2005, the Bureau filed an action to appoint an administrator in the Chancery Court for Davidson County. The action was transferred to probate court and, on November 23, 2005, the probate court appointed an administrator. On March 31, 2006, the Bureau filed a claim against Ms. Hare's estate for reimbursement of medical benefits in the amount of \$28,101.83. The administrator of Ms. Hare's estate filed an exception to the claim in April 2006, asserting the limitations period for the filing of claims against Ms. Hare's estate had expired. In September 2006, the probate court dismissed the claim as time-barred under Tennessee Code Annotated §§ 30-2-307 and 310 where it was filed more than twelve months after Ms. Hare's death. The Bureau appealed, asserting its right to recover was not subject to the limitations period prescribed in Title 30. We affirmed dismissal of the Bureau's action as time-barred. *In Re: Estate of Hare*, No. M2007-00563-COA-R3-CV, 2007 WL 4459934 (Tenn. Ct. App. Dec. 19. 2007).

The Bureau applied for permission to appeal to the Tennessee Supreme Court. On October 26, 2009, the supreme court granted the Bureau's application for permission to appeal for the purpose of remanding the matter to this Court for reconsideration in light of the supreme court's holding in *In Re: Estate of Martha Tanner*, No. M2006-02640-SC-R11-CV, which was released on October 7, 2009. In *Estate of Tanner*, the supreme court held:

At least until the first day of January, 2007, when the most recent amendment took effect, claims by the Bureau were not subject to a one-year statute of limitations, regardless of whether it received a notice to creditors.

In Re Estate of Tanner, ---- S.W.3d ----, No. M2006-02640-SC-R11-CV, 2009 WL 3191703, at *16 (Tenn. 2009).

In light of the supreme court's holding in *Estate of Tanner*, we reverse the trial court's dismissal of the Bureau's claim as time-barred under Tennessee Code Annotated §§ 30-2-307 and 310. This matter is remanded to the trial court for further proceedings. Costs of this appeal are taxed to the Appellee, Estate of Thelma Ruth Hare.

DAVID R. FARMER, JUDGE